

1 MR. PFAU: Mike Pfau, for AT&T.

2 Whereupon,

3 ROY LATHROP

4 CHUCK GOLDFARB

5 ALAN BUZAROTT

6 MIKE PFAU

7 were called for examination by the Commission and,
8 after having been duly sworn by the notary public,
9 were examined and testified as follows:

10 ARBITRATOR ATTWOOD: Verizon, you may
11 begin.

12 CROSS-EXAMINATION

13 MR. GARY: Mr. Pfau, I would like to
14 discuss with you for a second service
15 disconnections.

16 Do you have with you the AT&T proposed
17 language in Section 11-13?

18 MR. PFAU: Not here.

19 MR. GARY: Are you familiar with that
20 which deals with replacement services with
21 unbundled elements?

22 MR. PFAU: Yes, I'm familiar. I need a

1 copy of that language.

2 ARBITRATOR ATTWOOD: What number is this?

3 MR. GARY: This is part of the
4 application. It's the contract, proposed contract,
5 between AT&T and Verizon that AT&T submitted with
6 its petition on April 23rd, 2001.

7 Mr. Pfau, this section I handed to you,
8 11.13, is entitled "Replacement of Services with
9 Unbundled Network Element"; is that correct?

10 MR. PFAU: That's correct.

11 ARBITRATOR ATTWOOD: Can you identify the
12 issue you're questioning on.

13 MR. GARY: Yes, Your Honor, I sure can.

14 ARBITRATOR ATTWOOD: It's helpful because
15 we have different staff working on different
16 issues. If you could identify issues for cross so
17 we could get the right people.

18 MR. GARY: This deals with primarily the
19 disconnection for the emerging services, and it's
20 probably issues III-6 and 7.

21 MR. MELLUPS: III-7.

22 MR. GARY: Mr. Pfau, by definition of that

1 provision you have, that section applies to any
2 service that is replaced with UNE or combination of
3 UNEs, does it not?

4 MR. PFAU: Yes.

5 MR. GARY: It doesn't apply to just
6 changing the UNE to a UNE-P from special access?

7 MR. PFAU: Changing UNE-P to special
8 access?

9 MR. GARY: From special access.

10 MR. PFAU: UNE-P is a special access.

11 MR. GARY: Going to special access, what
12 would you convert it?

13 MR. PFAU: A loop transport combination.

14 MR. GARY: If you look for a moment at the
15 bottom at Section 11-13-4, the last sentence there
16 says, (reading) Verizon shall facilitate all
17 conversions requested by AT&T without disruption of
18 service.

19 Do you see that?

20 MR. PFAU: Yes, I do.

21 MR. GARY: Is it your position that all
22 conversions of service to UNEs can occur without

1 any disruption of service?

2 MR. PFAU: All existing service can be
3 converted without disruption.

4 MR. GARY: All existing service?

5 MR. PFAU: Yes.

6 MR. GARY: Let's turn--do you have your
7 testimony with you?

8 MR. PFAU: Um-hmm.

9 MR. GARY: Look for a moment, if you
10 will--and this is--

11 MS. FARROBA: Exhibit number?

12 MR. GARY: Direct testimony.

13 MS. FARROBA: Page?

14 MR. GARY: Look at page 17, will you?

15 MR. PFAU: Okay.

16 MR. GARY: Lines 19 and 20 of this
17 testimony, it reads, (reading) AT&T does not
18 dispute that converting active retail service to
19 UNE-L involves physical disruption of service as a
20 result of change.

21 Do you see that?

22 MR. PFAU: That's correct.

1 MR. GARY: Would that kind of change be
2 covered by the language in 11.13?

3 MR. PFAU: No, because a UNE-L is not a
4 service. It's a loop. It's a physical facility.
5 That's not a conversion of combination. It's a
6 single element.

7 MR. GARY: Is it your testimony that that
8 section would not cover that type of disruption?

9 MR. PFAU: It's not a relevant combination
10 service.

11 MR. GARY: That section covers more than
12 such combination, doesn't it?

13 MR. PFAU: Conversions or combination of
14 elements. A UNE-L is not a service.

15 MR. GARY: If you convert it at a hot cut,
16 it requires some physical disruption. Would it be
17 covered by that section?

18 MR. PFAU: No, because when you're doing a
19 hot cut, you take a loop and share transport
20 breaking apart and giving us only a loop. That's
21 not a service conversion to a UNE combination by
22 any stretch of the imagination.

1 MR. GARY: No further questions, Your
2 Honor. I have no further questions of the panel.

3 ARBITRATOR ATTWOOD: We have questions.
4 We will have a break so the Court Reporter can work
5 with the sound system.

6 (Brief recess.)

7 ARBITRATOR ATTWOOD: Why don't we begin.
8 We will go back on the record. Could you please
9 identify yourself, and we will have you sworn in.

10 MR. GANSERT: Joseph Gansert.

11 MS. GILLIGAN: Nancy Gilligan.

12 ARBITRATOR ATTWOOD: All for Verizon.

13 MS. FOX: Susan Fox.

14 MR. ANTONIOU: Chris Antoniou.

15 Whereupon,

16 CHRIS ANTONIOU

17 SUSAN FOX

18 NANCY GILLIGAN

19 JOE GANSERT

20 were called for examination by the Commission and,
21 after having been duly sworn by the notary public,
22 were examined and testified as follows:

1 ARBITRATOR ATTWOOD: Feel free to ask your
2 questions.

3 CROSS-EXAMINATION

4 MR. MELLUPS: We do have some questions.
5 If it's okay for the rest of the attorneys for
6 petitioners, I will go first this time, and we
7 could switch off later on.

8 My name is Ivars Mellups, and I'm an
9 attorney representing AT&T, and I'm going to try to
10 keep this short. I will try to get to the bottom
11 of a couple of questions I have about your
12 testimony on the issues on this panel.

13 I will start off with issue III.6, which
14 has to do with the--well, let me start out with
15 III.6. And I'm looking at your testimony, your
16 direct testimony, dated July 31st on page four,
17 although I think the page number did not come out
18 on the bottom. It is page four physically. But
19 the middle of that page, lines 8 through 12,
20 which--let me characterize it as a new Verizon
21 offer to provide some new combinations of UNES.
22 And I would like to explore what that offer

1 consists of and what it really means.

2 Are you familiar with the piece of the
3 testimony I'm talking about?

4 MS. GILLIGAN: Yes, I am.

5 MR. MELLUPS: First of all, I take it from
6 the description of that offer that it is limited to
7 the UNE platform. That's UNE-P or UNI-PLAT. It's
8 not limited to other combinations; is that true?

9 MS. GILLIGAN: That's true.

10 MR. MELLUPS: Secondly, see it's limited
11 to where facilities are available and currently
12 combined.

13 Is there--do you have an explanation of
14 what you mean by facilities available and currently
15 combined?

16 MS. GILLIGAN: Yes. What we are referring
17 to in that instance is where we have cable
18 facilities that run from the mainframe out to the
19 customer location, and that doesn't mean that there
20 might not be some cross-wiring that has to take
21 place in the central office between the switch port
22 and the loop facilities.

1 It also might not include the fact we may
2 have to do a dispatch to drop wire to the terminal
3 facility where the cable is.

4 MR. MELLUPS: In your answer or response
5 to AT&T's discovery requests 3-1, which I think I
6 passed out to you yesterday, or you got a copy of
7 yesterday--

8 MS. GILLIGAN: Yes.

9 MR. MELLUPS: --there is a description of
10 what happens when a customer is disconnected, and
11 I'm wondering whether your definition of "currently
12 combined" covers that.

13 MR. STANLEY: Is this a copy of the
14 document we shared with the witness yesterday?

15 MR. MELLUPS: Yes, it was. We have copies
16 for you, too.

17 I would like to have this marked as AT&T
18 Exhibit Number 18.

19 (AT&T Exhibit No. 18 was
20 marked for identification.)

21 MR. GARY: No objection.

22 MR. MELLUPS: In the supplemental reply,

1 the question was what type of physical work is
2 required to disconnect the customer, and you gave
3 two responses. One is a switch translation work or
4 jumper wires being removed.

5 And my question is this, simply: If a
6 switch translation is done to terminate a
7 customer's service or if jumper wires are removed
8 when a customer is terminated for service, would
9 that--would those facilities be considered to be
10 currently combined or not?

11 MS. GILLIGAN: We would consider those to
12 be currently combined.

13 MR. MELLUPS: Okay. The other question I
14 had was on the term "new construction." Part of
15 the offer is that no new construction be required.
16 What kind of new construction is intended here? Is
17 it increasing the main distribution capacity or
18 switch capacity? Or what kind of activity is
19 intended to be covered by this term?

20 MS. GILLIGAN: It could include increasing
21 switch capacity, new. New construction would also
22 include cable buildouts. If we didn't have the

1 distribution plant in place, and we had to run
2 cable, we would consider that new construction.

3 MR. MELLUPS: Is there some way for a CLEC
4 to know in advance whether a request it makes for a
5 UNE-P would be covered by this offer or not?

6 MS. GILLIGAN: In the Interconnection
7 Agreements, we do identify what types of
8 combinations are available. Therefore, you would
9 know, for example, that POTs service or BRI or PRI
10 are available. Until the order is actually placed,
11 we wouldn't know if the--

12 MR. MELLUPS: There would be no way for
13 CLEC to know in advance, there is no list or
14 confirmation that would say this order does not
15 qualify because it's not currently combined or
16 facilities are not available, or new construction
17 is required or the other limitations on this offer;
18 is that correct?

19 MS. GILLIGAN: That's correct. We
20 wouldn't know until an order is placed whether
21 there are facilities available or not.

22 MR. MELLUPS: One of the things I would

1 also like to briefly explore is a couple of
2 hypotheticals, and I would like to see whether the
3 new offer removes some of the questions that we had
4 in our testimony.

5 Let's assume a new subdivision that has,
6 in fact, been wired by Verizon. Could a CLEC in
7 that situation order a new first line for a new
8 customer under this offer?

9 MS. GILLIGAN: If there were facilities,
10 if the cable had been placed out to that new
11 subdivision and it was a matter of, for example,
12 cross-connecting a drop wire to the terminal, yes,
13 they would be eligible for platform-type services.

14 MR. MELLUPS: And I assume the answer
15 would be the same if a CLEC were to order a second
16 line?

17 MS. GILLIGAN: Yes.

18 MR. MELLUPS: You mentioned nonrecurring
19 charges. Are these tariff charges?

20 MS. GILLIGAN: In the State of Virginia,
21 we use contracts.

22 MR. MELLUPS: Are these nonrecurring

1 charges being developed in this proceeding?

2 MS. GILLIGAN: It is my understanding that
3 there are.

4 MR. MELLUPS: Are there any systems,
5 mechanical systems, in place that would
6 permit--well, I think you already answered this
7 yes. Never mind.

8 I take it it's still Verizon's obligation
9 it's obligated to provide these combinations but
10 doing so out of a sense of obligation or perhaps it
11 would be a good thing to do; is that correct?

12 MS. GILLIGAN: That's correct.

13 MR. MELLUPS: Could Verizon back off and
14 any time change its minds and go back to its
15 previous position that no combinations will be
16 provided?

17 MS. GILLIGAN: I don't think--I suppose it
18 could, but I don't think it's likely.

19 MR. ANTONIOU: I would like to speak to
20 that. We would have in the contract language that
21 would provide that we would do these things that
22 have been put forward in the document that you're

1 addressing, and thus to the extent to which the
2 contract is still in place and effective, we
3 wouldn't be in a position to cease doing that. We
4 have no intent to cease doing it in any case, but
5 we are trying to address your hypothetical.

6 MR. MELLUPS: The offer is good for the
7 term of the Interconnection Agreement?

8 MR. ANTONIOU: At the very least.

9 MR. MELLUPS: How would a CLEC go about
10 enforcing this agreement? Complaint to the FCC?

11 MR. ANTONIOU: Pursuant to dispute
12 resolution elements.

13 With AT&T we had a procedure negotiated
14 with AT&T that provides in the alternative for
15 dispute resolution.

16 MR. MELLUPS: If that doesn't work, where
17 does it go from there?

18 MR. ANTONIOU: I would have to pull out
19 the terms, but these are terms that AT&T generally
20 wished to have. I think Verizon's typical terms
21 are that either party may use whatever remedies
22 that are available, including the procedures and

1 fora, which would most likely be that one would go
2 to the applicable state commission. AT&T
3 had--generally has a desire--at least they
4 expressed to us they wished to have alternative
5 dispute resolution. We worked with AT&T to develop
6 language to that effect.

7 MR. MELLUPS: Okay. On page five of the
8 direct testimony, lines 8 through 12, you make a
9 statement, (reading) If Verizon VA decides later to
10 use density through zone one, has Verizon indicated
11 anywhere when it will offer extended--enhanced
12 extended loops throughout density zone and which
13 MSAs?

14 MS. FOX: No.

15 MR. MELLUPS: It has not.

16 Would Verizon make that announcement
17 sufficiently in advance so CLECs might have an
18 opportunity to react to it and react to it?

19 MS. FOX: Yes, but I'm not sure what you
20 mean by "sufficiently in advance." What would that
21 mean? I'm not sure.

22 MR. MELLUPS: I'm not sure--

1 MS. FOX: We would need to know what
2 sufficient advanced notice--

3 MR. MELLUPS: You would provide advanced
4 notice?

5 MS. FOX: Yes.

6 MR. MELLUPS: The question is how much
7 advanced notice, then.

8 Would you think it would be fair to--in
9 that situation where Verizon were to effectuate the
10 exception, do you think it would be fair to
11 grandfather existing loops or not?

12 MS. FOX: What would need to be
13 grandfathered? I'm not sure I understand your
14 question.

15 MR. MELLUPS: I'm talking about the
16 existing CLEC services that are in existence and
17 based upon the availability of the UNE-P.

18 MS. FOX: I still don't understand your
19 question.

20 MR. MELLUPS: That's okay. I will
21 withdraw that.

22 Would you agree that the FCC is acting in

1 the stead of the Commission of Virginia, having
2 assumed the Commonwealth's jurisdiction, because
3 Virginia declined to exercise its right to
4 arbitrate under the law?

5 MR. GARY: That may be a legal question,
6 but we agree.

7 MR. MELLUPS: All right, fine. I will
8 take your testimony.

9 Are you aware that a number of other state
10 commissions have, in fact, ruled that an ILEC is
11 required to provide UNE combinations that are
12 ordinarily combined within the ILECs network in the
13 manner they are typically combined?

14 MS. FOX: Yes.

15 MR. MELLUPS: Do you know which
16 jurisdictions those are?

17 MS. FOX: Not off the top of my head.

18 MR. MELLUPS: Just to finish up on this
19 line.

20 I take it it's not your testimony that the
21 FCC cannot rule on this arbitration that "currently
22 combined" means as we would urge ordinarily

1 combined as other state commissions have done; is
2 that true?

3 MR. GARY: I object to that question.
4 That's also a legal question.

5 MR. MELLUPS: I will withdraw it.

6 In your rebuttal testimony, page seven,
7 line 16 through 17, you say that AT&T's new
8 language for Section 11-7-4--

9 MS. FARROBA: What exhibit number is that?

10 MR. MELLUPS: That's the rebuttal
11 testimony of this panel.

12 MR. STANLEY: What date was that filed?

13 MR. MELLUPS: I don't have the date on
14 that. It's rebuttal testimony on nonmediation
15 issues. Exhibit 15.

16 In that section of your rebuttal, you
17 state that again, line 16-17, that AT&T's new
18 language goes far beyond implementation of lawful
19 UNE combinations.

20 I take it this conclusion on your part is
21 really predicated upon Verizon's view that it's not
22 legally required to provide UNE combinations; is

1 that right?

2 MS. FOX: Yes.

3 MR. MELLUPS: If Verizon were to provide
4 some new combinations, for example, pursuant to the
5 UNE platform offer that we discussed earlier, the
6 language that I think Verizon claims that AT&T and
7 Verizon agreed to previously for that section would
8 need to be modified, would it not?

9 MR. ANTONIOU: We can make clear that if
10 the language you're referring to is acceptable,
11 that no way does other language--11.7.4 is what
12 you're pointing to--take away from otherwise we
13 would agree to, so the answer would be yes.

14 MR. MELLUPS: That's all I have on
15 section--on issue III-6. I can-- if somebody wants
16 to follow up on that.

17 Do you want issue by issue, or do you want
18 me to plough through all of them?

19 ARBITRATOR ATTWOOD: I will ask what's
20 easiest for you. Do you want to wait and reserve
21 and ask questions all at once for your company, or
22 do you want to jump in and ask per issue?

1 MS. KELLEY: It may make sense to wrap up
2 with one issue.

3 ARBITRATOR ATTWOOD: Any questions related
4 to III-6?

5 MS. KELLEY: I have a few.

6 I would also issue that III-6 and III-7
7 were addressed together. There may be some overlap
8 here.

9 ARBITRATOR ATTWOOD: Sure.

10 REDIRECT EXAMINATION

11 MS. KELLEY: I'm going to try hard not to
12 repeat what you just went through.

13 I have a preliminary question. The JDPL
14 was entered into evidence earlier, in terms of
15 which contract sections Verizon is proposing to
16 WorldCom to implement your combinations position,
17 in the JDPL you indicate Section 4 and UNE
18 attachment Section 1.4, and I want to verify that
19 those are the only two provisions that you're
20 asking the Commission to adopt to implement your
21 combinations proposal.

22 MS. FOX: I don't know.

1 MS. KELLEY: I would be happy to have you
2 look at the JDPL, if you want.

3 MS. FAGLIONI: We will provide them a copy
4 of it.

5 MR. ANTONIOU: Could you rephrase your
6 question, please.

7 MS. KELLEY: In the decision point list
8 which the Commission asked us to address each
9 contract language per issue and the rationale,
10 Verizon has listed as its proposed contract
11 language to implement the combinations issues
12 Section 4 of its contract, its proposed contract,
13 and Section 1-4 of the UNE attachment to its
14 proposed contract.

15 And my question is: Is that the entirety
16 of the contract language that you're seeking to
17 impose related to combinations?

18 MR. ANTONIOU: No. I was not involved in
19 putting together the JDPL, the Joint Decision Point
20 List, so I can't speak to why those are the only
21 provisions that are there.

22 I would say that whatever language that we

1 have provided to WorldCom and to the other
2 petitioners in the contracts we sent them is what
3 we need with respect to this contract in total.
4 I'm looking at the UNE attachment right now that we
5 have submitted to WorldCom, and I see Section 1-2
6 of the attachment very specifically addresses
7 combinations, so I would not want by virtue of a
8 document that we created in good faith in
9 apparently in putting together that document not
10 listed a provision to have an answer to this
11 question, somehow lead to the conclusion that we
12 don't need other protections that we explicitly
13 requested from you.

14 MS. KELLEY: I understand, and if you want
15 to add sections to this, I'm happy to do so. I
16 want to make sure I have the opportunity to ask you
17 about any of them, so if there's any you would like
18 to add, let me know.

19 ARBITRATOR ATTWOOD: Could I just for the
20 record--and I apologize if I missed, but when
21 you're referring to the full amount of language
22 that you are advocating, you're referring to what

1 exhibit?

2 MS. FAGLIONI: Exhibit to Verizon's
3 answer.

4 ARBITRATOR ATTWOOD: Number what?

5 MS. FOX: C-1-5.

6 MR. ANTONIOU: Proposed agreement with
7 WorldCom, Your Honor.

8 ARBITRATOR ATTWOOD: That would be the
9 originally filed full contract language?

10 MS. FAGLIONI: That's correct.

11 MR. ANTONIOU: But to respond as well as I
12 can to the question, clearly Section 1-2 deals with
13 combinations. 1-3 deals with combinations. This
14 is to the UNE attachment. 1-5. Section 1-6 of the
15 same attachment.

16 I have gone through as well as I can very
17 quickly, while everyone is waiting here, to list
18 the sections that deal with combos.

19 MS. KELLEY: I want to make sure as
20 petitioners we ask you about any language that you
21 are proposing is relevant. We are relying on what
22 you provide to us. If there is anything else, I

1 would ask you to check in and let us know what
2 you're proposing, and we will--in response, and we
3 will submit any question questions we have.

4 I want to ask a question about Section 1.2
5 which you referenced. Section 1.2, and I'm
6 paraphrasing--and I'm not trying to read the entire
7 section, but Verizon says it's not okay for a
8 customer to order a service that will require you
9 to combine elements that aren't combined as I
10 assume you define and have that customer service to
11 WorldCom over combined UNEs; is that fair?

12 MR. ANTONIOU: I would like to describe it
13 a little bit differently. It is clear that to the
14 extent to which one of our customers orders--one of
15 our end user customers orders a special access
16 circuit, and then it becomes a customer of another
17 carrier, or CLEC; and the tests that are met that
18 are set forth under the second Order of
19 Clarification on conversions and certification is
20 provided to that effect; and minimum-use periods
21 are met; termination liabilities paid to the extent
22 applicable, we certainly will in that case provide

1 the conversion to the loop transport combination.

2 What the language is meant to deal with is
3 the instance in which a CLEC encourages Verizon
4 customers not to become customers of the CLEC, but
5 instead encourages Verizon customers to ask for
6 services of Verizon with no intent to keep those
7 services other than for, say, a day, services that
8 Verizon would not have to provide as UNEs to the
9 CLEC.

10 And I don't know if this is a technical
11 definition of fraud, but from our perspective it's
12 something akin to that. Basically, CLEC induces
13 the Verizon customer not to become a CLEC customer
14 but to order services from Verizon so CLEC can then
15 flip them.

16 And this is particularly problematic. I
17 addressed this scenario a moment ago about special
18 access. It's typically problematic. The typical
19 scenario with retail service in a state is that we
20 have no minimum-use periods. We have no
21 termination liabilities. We have no means by which
22 in the current environment to make ourselves whole

1 for this Act.

2 Now, if this--it appears this issue is
3 going to be taken up, and if the Commission were to
4 say to us, "Verizon, that's too bad. You need to
5 go out and do something about your tariff in a
6 state," then at the very least if we have the
7 Commission telling us we have to, we may have a
8 better reception. But if we don't have that when
9 we go and try to get these tariffs changed, it
10 seems to me it will be very difficult to do it.
11 It's an issue we spent some time thinking about.

12 MS. KELLEY: Let me break this down into
13 bits.

14 Let's assume for a moment that we have an
15 area in which you don't have sufficient facilities
16 to add a "said" line, for example. You would have
17 to engage in special construction, new construction
18 out there. My understanding is you are not going
19 to combine. If a customer asks for a combination,
20 in that instance you're going to say "no" because
21 you would have to engage construction. Am I right
22 about that piece?

1 MS. GILLIGAN: That's correct.

2 MS. KELLEY: Okay. And that's true even
3 though your customer ordered it. If the end user
4 was your customer, you would provide such
5 construction pursuant to your tariff; am I right
6 about that?

7 MS. GILLIGAN: Yes.

8 MS. KELLEY: That's true if WorldCom
9 agreed to pay the same charges your end user would
10 pay under such normal circumstances.

11 MS. GILLIGAN: Our retail rates are
12 designed to take into account the fact there may be
13 new facilities' buildouts combined to our UNE rates
14 that do not have that component built in, so it
15 presupposes that service would be in place for some
16 period of time so we could cover our costs.

17 MS. KELLEY: My question to you is: You
18 have a special rate in--tariff in your construction
19 customers have to pay. If it goes beyond the
20 normal, I understand your tariffs for normal
21 charges we won't bill the end user customer, but in
22 some circumstances we will, if WorldCom offered to

1 pay these charges in that situation you wouldn't
2 provide it to us; am I right about that?

3 MR. ANTONIOU: You're correct.

4 MS. KELLEY: So, in Section 1.2, if a
5 WorldCom customer came to us and said, "We would
6 like you to provide the service," and we said we
7 would like to, but we can't get Verizon to engage
8 in special construction to do the combining, and
9 the customer said, "I will call them and have them
10 do it. They will do it for me; right?" Your
11 Section 1.2 would prohibit that; am I right about
12 that?

13 MR. ANTONIOU: Could you repeat, please,
14 the scenario. I need to understand it better.

15 MS. KELLEY: The question or start from
16 the beginning?

17 MR. ANTONIOU: The specific question.

18 MS. KELLEY: In the situation we have been
19 discussing, if we have a customer who said, "You
20 know, I would like--really like you to provide a
21 second line," and we say, "We would like to move to
22 provide you that" because it would be a new

1 combination and Verizon doesn't have the facilities
2 and they won't put them in place for us, even if we
3 pay, and the customer says, "Well, why don't I
4 switch to Verizon, they will do it for me, and I
5 could get them to do it," and I could come
6 back--your Section 1.2 would prohibit that; right?

7 MR. ANTONIOU: No.

8 MS. KELLEY: Why wouldn't it prohibit
9 that?

10 MR. ANTONIOU: Our language--and if you
11 need clarification on that, perhaps we could arrive
12 at that appropriate language. Our concern is there
13 not be an intent, an action consistent with the
14 intent on the part of the carrier to go out
15 actively to our customers and tell them to do the
16 sort of thing. If the customers decide on their
17 own to go ahead and for services provided by us and
18 they decided to switch over, that's a very
19 different scenario.

20 MS. KELLEY: So, your testimony is maybe
21 we could modify your language to accommodate the
22 scenario I just described?

1 MR. ANTONIOU: Clearly, if WorldCom is of
2 the mindset that it will agree that it will not do
3 what I'm talking about, go to our customers and
4 encourage them to take services that require us to
5 build out with the intent then of flipping over, if
6 they agreed to that sort of language, then we could
7 have accommodation.

8 MS. KELLEY: Am I right, setting
9 aside--not setting aside who goes to whom. If in
10 the situation about the customer comes up with the
11 idea on their own, we're unable to compete for that
12 customer on the same terms that you provide service
13 to that customer. In other words, we can't say to
14 them we will provide this to you because we can't.
15 It would be a new combination, in your view, and
16 you wouldn't provide the construction. Nor can we
17 say to them, "Go to Verizon and get it." That's
18 one way we could provide it to you.

19 MR. ANTONIOU: I'm not sure there is a
20 question there.

21 MS. KELLEY: The question is: We cannot
22 compete for these customers in those circumstances;

1 isn't that right?

2 MR. ANTONIOU: You're saying we have on
3 obligation for a network.

4 MS. KELLEY: It's a simple question.

5 ARBITRATOR ATTWOOD: Is it your testimony
6 that under the circumstances you described, you
7 cannot or, I should say, will not provide that
8 second line or that new construction, that
9 combination, or that you will not provide it at a
10 UNE price?

11 MR. ANTONIOU: Your Honor, I want to make
12 sure I understand the question. If we are talking
13 about the facilities already being there, and this
14 goes to--

15 ARBITRATOR ATTWOOD: The line of
16 questioning went to a new connection, new
17 combination, and I'm going to use a second line as
18 an example. If the customer wanted to have a
19 second line--I want to just understand--is it your
20 position that you would not, in fact, provide a
21 second line for that customer pursuant to the
22 request by WorldCom, period, or that you wouldn't

1 provide that second line at a UNE combination
2 price?

3 MS. GILLIGAN: We wouldn't do new
4 construction in terms of new cable buildout. There
5 are other options that, for example, they could
6 take resold service as an alternative for the
7 second line.

8 ARBITRATOR ATTWOOD: Okay, I get it, all
9 right. Thank you for that.

10 MR. GANSERT: As I listen to this, we are
11 getting confused because the hypothetical was posed
12 in what's not the real operational way those things
13 would be handled. The hypothetical was posed,
14 basically we have no facilities condition for a
15 normal additional line order. That would never
16 result in special construction. Special
17 construction has a special meaning. That's where a
18 customer asked for something that we don't normally
19 build in the network or that's costly, that we
20 haven't put in something like sonic fiber system or
21 something. If we got a situation where we can't
22 provide additional lines which we're mandated to do

1 so by law on demand, that means that we got a
2 serious facility shortage. And in fact, we should
3 be reacting to relieve that, and really they're
4 facing same constraints we are. We wouldn't be
5 able to provide more service than they can until we
6 build facilities. Once we build facilities, there
7 will be facilities and it would be available to
8 anyone to get them.

9 We are confusing two different situations.

10 ARBITRATOR ATTWOOD: Okay.

11 MS. KELLEY: Just to make sure I'm clear,
12 do I understand you to mean that if facilities are
13 exhausted at the time we sought a second line, you
14 would put facilities in that we could access as
15 well as you?

16 MR. GANSERT: If there was a request for
17 an additional line for a normal residence customer
18 we are not able to provide, we're in no facility
19 condition in our network, somehow our planning has
20 totally failed. We--in spite of the fact we build
21 our distribution facilities on an ultimate basis,
22 somehow we have run out of facilities and we would

1 be reacting. You would just happen to identify.
2 It's hard to believe you would find this out that
3 we wouldn't find it out, but the reaction would be,
4 here there is an emergency need to augment the
5 network, not the special construction, and we would
6 as soon as possible augment our network for service
7 because any customer on that street would not be
8 able to get that service.

9 So, we would be in the most service
10 blockage condition we could have as a company. We
11 believed that once that happened, once you asked
12 for the service, the facility would be there.

13 MS. KELLEY: So, I take that to mean yes?

14 MR. GANSERT: That was my answer. Whether
15 it's yes, I'm not sure.

16 ARBITRATOR ATTWOOD: That was helpful for
17 me.

18 MS. KELLEY: Just briefly, all the
19 sections of your proposal that you discuss Section
20 4, Section 1-4, you added 12, 15, a few others.
21 Feel free to take a minute to look at it. But I'm
22 correct that no language contained in those

1 sections incorporates the offer that you provided
2 in your testimony. And that UNE-P combination
3 offer is what I'm talking about.

4 MR. ANTONIOU: I'm not certain whether it
5 does include that or not. I suspect you're
6 probably right, but the bottom line is that if that
7 offer is attractive and you wanted, we could work
8 to ensure that words will be in the contract to
9 give it effect.

10 MS. KELLEY: But my question to you is:
11 The Commission could not adopt your contract as
12 proposed consistent with your testimony because--

13 MR. ANTONIOU: That's probably the case,
14 but I'm not going to be able to answer that
15 question at this time.

16 MR. THAGGART: May I ask a question? I'm
17 an attorney with the Policy Division, and with
18 regards to the anti-gaming provision that Verizon
19 was being asked about.

20 What limitations would you place on
21 WorldCom or your customers in terms of switching
22 over to WorldCom?

1 MR. ANTONIOU: If you would, please,
2 provide some detail. I'm not sure what the import
3 of the question is.

4 MR. THAGGART: I understood the questioner
5 to ask you whether it would be okay for customers
6 to switch over to WorldCom, number one; and number
7 two, whether WorldCom could very well compete for
8 those customers after they have acquired special
9 access service.

10 I'm wondering what limitations would you
11 put on your offer or agreement to permit WorldCom
12 to compete for those customers in the contract
13 language.

14 MR. ANTONIOU: With respect to special
15 access service conversions to loop transport
16 combinations, we are not seeking to place any
17 limitations on that that aren't set forth in
18 applicable law. I refer to the Order of
19 Clarification that talks about three tests being
20 met with respect to specific local use
21 certification. That's what we want to do. And
22 depending how there is a docket open there as we

1 all know, however that plays out for better or
2 worse for us, whatever it is, we will do.

3 Our language, I think, in question here
4 the last couple of sentences of Section 1-2 speaks
5 to the fact we think it's inappropriate for the
6 competing carriers to go to our customers and say
7 to them, "If you want certain types of services,
8 listen, go ask Verizon to build them, and we will
9 flip them over the next day." Verizon is not
10 required to do it if they are. We think that's
11 inappropriate.

12 We want protection in the contract that if
13 we find out sort of through the grapevine that's
14 what carriers are doing, we would like to point to
15 a clause in the contract and say someone is doing
16 wrong here. We submit at this point this is the
17 wrong thing to do here. It's not fair. It's
18 inappropriate. It turns on the head the
19 fundamental precepts of the Act. The carrier takes
20 our network as it finds it, not require us to go
21 out and build.

22 But if someone has not done that act and

1 meets the Commission's requirements for
2 conversions, of course we are going to do them. We
3 are not looking for any sort of prohibitions. We
4 don't think we have a right to, and we are not
5 going to ask for them.

6 MS. FARROBA: There may be some other
7 questions on this issue, but the staff will address
8 them when we call all the witnesses up at one time.

9 So, if we want to go back to the
10 cross-examination.

11 MR. SCHNEIDER: This is on issue III-7,
12 and it's directed to the witness most familiar with
13 the testimony concerning the switching exception
14 and the availability of enhanced extended links,
15 which I will refer to as E-E-L-S, or EELS.

16 The limited purpose of these questions is
17 to put on the record what I understand the
18 agreement we want on the record. This is an
19 agreement that was arrived at, I believe, during
20 the motion to dismiss discussions.

21 First of all, who is the person who is
22 best suited?

1 MS. FOX: If it's a UNE platform question,
2 Nancy is the expert. If it's an EEL question, I'm
3 the expert.

4 Now, if you're proposing to ask a question
5 about the local switching exception since it
6 includes both, we will wait until you ask the
7 question.

8 MR. SCHNEIDER: Do you recall the
9 testimony that you currently intend to provide on
10 bundled local switches ubiquitously and currently
11 not planning on invoking the switching exception?

12 MS. GILLIGAN: Yes, correct.

13 MR. SCHNEIDER: You further testified if
14 you choose to invoke the switching exception, you
15 will at that point provide unrestricted access to
16 EELS?

17 MS. FOX: That's true.

18 MR. SCHNEIDER: And the only point I'm
19 trying to have on the record is an understanding
20 that in the event that happens and you do provide
21 EELS, you will provide EELS without limitations
22 that are set out in the Supplemental Order of

1 Clarification, the three tests that Chris just
2 referred to.

3 MS. FOX: We would provide EELS pursuant
4 to the Supplemental Order of Clarification. So,
5 when you say--when you said "without restriction,"
6 I shouldn't have said yes without understanding
7 what you meant.

8 We would provide EELS pursuant to
9 applicable law, and we are providing--we are doing
10 conversions today, but also we would provide new
11 EELS under those same conditions.

12 MR. SCHNEIDER: That wasn't my
13 understanding. I'm glad I asked the question.

14 In other words--and maybe this is
15 something you could talk through with counsel--my
16 understanding was that, in the event you choose not
17 to provide them local switching for a customer, you
18 would provide an EEL to us so we can provide
19 service to that customer through our switch without
20 regard to whether that particular customer
21 satisfied the limitations that are set out in the
22 Supplemental Order of Clarification.

1 MS. FOX: Could you repeat the question?

2 MR. GARY: Maybe we should save this for a
3 break because this may be a legal question where
4 there should be more discussion among counsel from
5 our side. It's an interesting question. I'm not
6 sure our witnesses can deal with a legal question
7 like that.

8 MR. SCHNEIDER: I'm happy to do it at the
9 break, but let me say as to the--since the contract
10 language says--as proposed, says we are required to
11 do what we are required by law to do, and we
12 believe that they should do what is required by
13 law. We should defer this for a bit.

14 MR. GARY: At this point we don't invoke
15 the switching exemption, so it's an academic point
16 at this point. We are not down the road yet to
17 know exactly.

18 MR. ANTONIOU: Put it another way, we want
19 to answer your question well.

20 MR. SCHNEIDER: Absolutely, and I will
21 leave the question on the record for the time being
22 and look forward to our discussions. That's all I

1 have on III-7.

2 MR. MELLUPS: I never got through with
3 III-7.

4 Was there anybody else over there?

5 MR. HARRINGTON: Cox has no questions on
6 this.

7 MR. MELLUPS: I take it you would agree
8 with the statement that under existing FCC rules
9 the combination of combined limits, as you would
10 define that term, is not permitted except on CLEC
11 request?

12 MR. ANTONIOU: Yes.

13 MR. MELLUPS: By the way, I'm addressing
14 the III-7-A issue.

15 Would you also agree that the loops and
16 transport facilities used to provide exchange
17 access services are the very same loops and
18 transport facilities that are used to provide local
19 exchange services?

20 MS. FOX: Well, they could be.

21 MR. MELLUPS: They could be?

22 MS. FOX: What I understand your question

1 to be is can a CLEC buy a special access service
2 and then use that to connect the end user to a
3 local switch, so in that respect you would have
4 purchased it out of the interstate tariff
5 presumably to provide exchange access. However,
6 the reality, you use it to provide local exchange
7 service.

8 MR. MELLUPS: I'm focusing specifically
9 upon the conversion issue, obviously, conversion of
10 special access to extended enhanced loops.

11 MS. FOX: Right.

12 MR. MELLUPS: In light of your answer, let
13 me do it in a slightly different way.

14 Are you familiar with the Verizon
15 guidelines for converting special access to loop
16 transport combinations which I gave you a copy of
17 yesterday?

18 MS. FOX: Yes, I'm familiar with those.

19 MS. FARROBA: Do you have copies of that
20 for the arbitrator to look at?

21 MR. MELLUPS: Yes. This should be marked
22 as AT&T Exhibit 19.

1 (AT&T Exhibit No. 19 was
2 marked for identification.)

3 MS. FARROBA: Just to give everybody a
4 heads up, what we are planning on doing schedule
5 wise is seeing if we could get through the
6 cross-examination by 12:30 to take the lunch break,
7 and then--which would mean we would ask all the
8 witnesses to come back, both the Verizon, the AT&T,
9 and WorldCom witnesses so that the staff could ask
10 their questions.

11 MR. MELLUPS: Are we ready to go on?

12 MS. FARROBA: Yes, please.

13 MR. MELLUPS: Again, in light of the maybe
14 answer you gave me to my last question, if you look
15 at page two of these guidelines, the center
16 paragraph, the one that begins "the physical
17 facilities," I don't want you to necessarily read
18 this, but doesn't that paragraph basically say the
19 facilities--in a conversion process under those
20 guidelines, the facilities would be the same, the
21 identical facilities?

22 MS. FOX: Yes, yes.

1 MR. MELLUPS: Thanks.

2 MR. GANSERT: I was having trouble with
3 the question, too. You sort of implied "always,"
4 and we were just thinking, Well, it's not always
5 true. It's often true but not necessarily true.

6 MR. MELLUPS: Never is never too strong a
7 word, and always is always too strong a word. I
8 will go along with that.

9 We established that at least in the vast
10 majority of cases, it's the same facility; is that
11 a fair characterization?

12 MS. FOX: Yes. Fair characterization of
13 the conversion is you take an existing special
14 access facility and convert it to a loop transport
15 combination without changing or touching the
16 facility in place.

17 MR. MELLUPS: Right. And essentially
18 would you agree with the characterization that this
19 conversion process is essentially a billing
20 process?

21 MS. FOX: Yes.

22 MR. MELLUPS: One of the issues I think we

1 talked about before is the question of whether
2 there is any physical work required to do one of
3 these conversions. I think you just answered my
4 question when you said it was a fundamentally a
5 billing process rather than a physical process.

6 MS. FOX: If we are talking specific
7 access to EEL conversions, there's generally no
8 physical work required.

9 MR. MELLUPS: Okay, thank you.

10 There's one other cross exhibit I would
11 like to introduce, and that would be your response
12 to AT&T's discovery request 3-17.

13 MS. FARROBA: Just for the record, I
14 believe earlier you offered AT&T Exhibit Number 18,
15 that the guideline document that was just passed
16 out.

17 MR. MELLUPS: That should be 19.

18 MS. FARROBA: This one would be?

19 MR. MELLUPS: Their response to AT&T
20 discovery request 3-17 would be Exhibit 20.

21 (AT&T Exhibit No. 20 was
22 marked for identification.)

1 MS. FARROBA: I guess maybe when the
2 cross-examination of the panel is done, we can have
3 you offer for admission and take any objections and
4 then admit into evidence all of the exhibits that
5 have--that you're introducing right now.

6 MR. MELLUPS: That's fine.

7 MR. GANSERT: Could the witnesses get a
8 copy? We can't find it.

9 MR. MELLUPS: Do you have it now?

10 The question that was asked in that
11 discovery request was whether Verizon applied
12 differing provisioning and maintained--or
13 maintenance stands for special access and enhanced
14 extended loops.

15 What was Verizon's answer with respect to
16 the UNE platform?

17 MS. GILLIGAN: I guess it wasn't clear
18 from the answer that the subject you're referring
19 to special access, so we added some language in
20 there that covered UNE-P where we have comparable
21 provisioning and maintenance standards.

22 MR. MELLUPS: But your answer really is

1 it's the comparable retail services?

2 MS. GILLIGAN: Yes.

3 MR. MELLUPS: And for enhanced extended
4 loops, what was your answer?

5 MS. FOX: The answer for EELS, or enhanced
6 extended loops, is that given the process that we
7 have employed to convert these circuits, the
8 maintenance is the same as special access, and will
9 be for some time to come, so that if you convert
10 your special access circuit to an EEL, we are not
11 at this time changing the circuit ID because we are
12 giving billing adjustments, so therefore the
13 inventory is maintained as special access.

14 MR. MELLUPS: But the provisioning will be
15 judged under a different standard; is that correct?

16 MS. FOX: Well, if by provisioning you
17 mean the conversion interval, since we are talking
18 conversions, is that what--

19 MR. MELLUPS: I assume that's what it
20 would be, yes.

21 MS. FOX: Of course the provisioning
22 interval for a conversion is a totally different

1 thing than installation of a new circuit, so--and
2 we do have a standard conversion interval that we
3 are applying for all requests.

4 MR. MELLUPS: And the answer in your
5 response--the reply to the question that AT&T asked
6 you on discovery, basis of provisioning, and I
7 quote, (reading) Standard intervals associated with
8 the individual UNEs that complies with the loop
9 transport arrangement; isn't that correct?

10 MS. FOX: Yes, that answer really applies
11 for new circuits, so upon reflection I probably
12 would not have included that sentence in this
13 document, if I were answering this question today.
14 And instead, I would refer to our provisioning
15 interval for conversions because that's what we are
16 offering in Virginia today.

17 MR. MELLUPS: And what is that period of
18 time?

19 MS. FOX: The conversion interval is 30
20 calendar days or less, from the time that we
21 received the CLEC's request to convert a list of
22 circuits.

1 So, for example, when a CLEC submits a
2 request, it needs to include a list of circuits it
3 wants us to convert from special access to EELS.
4 And so the date that we receive it is--since we
5 generally received these requests electronically
6 through e-mail, is the date that the request was
7 made to Verizon usually through the account
8 manager.

9 So, say you submitted request for circuits
10 in Virginia, you populated a template, and you sent
11 that account to your manager contact on September
12 10th. The effective date for that conversion
13 request would be October 1st, so what's also called
14 an "effective bill date" would be October 1st. So,
15 our conversion interval for anything received in a
16 different month is always the first of the next
17 month.

18 So, as I gave an example, if you had
19 submitted a conversion request to us on September
20 10th, the effective date would be October 1st, so
21 any conversion submitted to us during the month of
22 September would have its effective bill date the